

**IN THE UNITED STATES DISTRICT COURT  
THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

Phyllis Lewis,

)

) Case No. 3:14-cv-0897

Plaintiff,

)

) Judge Trauger

v.

) Magistrate Judge Knowles

)

Paul Miller,

)

)

Defendant.

)

**DENIAL OF ENTRY OF DEFAULT**

Pending is Plaintiff's Request for Entry of Default against Defendant (Docket Entry No. 20).

The request is denied on the following grounds:

1. The complaint in this case has not been properly served on the Defendant. Federal Rule of Civil Procedure 4(c)(2) requires service be made by someone who is not a party. The proof of service filed by Plaintiff (Docket Entry No. 18) was executed by the Plaintiff who is a party to the action.

2. Plaintiff did not file an affidavit of military service as required by the Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.). The Act requires that affidavits be submitted that "state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**" (emphasis added).

Plaintiff's request for entry of default includes a request to the Clerk to provide direction on finding a rule or form that can be used to obtain Defendant's home address. The Clerk is not aware of any such rule or form.

Accordingly, for the foregoing reasons, Plaintiff's request for entry of default is denied.

s/ Keith Throckmorton

Keith Throckmorton  
Clerk of Court